

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Janek T. Chodnicki,

Debtor,

Case No.: BKY 04-30778 GFK
Chapter 7

RESPONSIVE AFFIDAVIT

STATE OF MINNESOTA)
)ss.
COUNTY OF HENNEPIN)

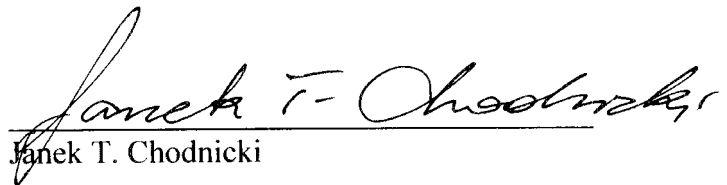
Janek T. Chodnicki, having been duly sworn, states:

1. I am the debtor in the above named defendant in the above entitled action. I am making this affidavit in response to the affidavit of the United States Trustee's office regarding my ability to pay my creditors through a Chapter 13 plan.
2. The United States Trustee's office has over-stated my income. I have attached a current pay stub to this affidavit as verification. My taxes on my pay stub are incorrect because my withholding status is still M-1. I should be S-0. My correct net monthly income should be \$1,845.00 after health insurance of \$338.00 and child support of \$602.00.
3. I have more current living expenses than stated in my Schedule J. I am paying the following court-ordered expenses:
 - A. Back-taxes to the Internal Revenue Service of \$111.62 per month.
 - B. Accumulated expenses for my daughter's mental health expenses of \$125.00 per month.

C. Cost to attend Project Pathfinder, Inc. of \$193.90 per month after insurance payments.

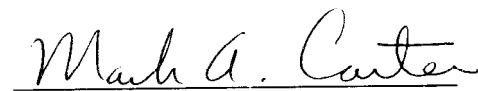
4. My mortgage payment amount was under-stated in my original Petition. I was in the process of refinancing and my former attorney used the wrong amount. My monthly payment is actually \$2,397.75.
5. At this time I have two renters, paying a total of \$800.00 per month. In one month, one renter will move out.
6. As a result of these changes my total net income after this month will be \$2,245.00 and my net expenses are \$3,754.27.

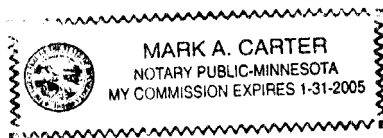
Further, your affiant saith not.


Janek T. Chodnicki

Subscribed and sworn to before me this

9th day of June, 2004.


Notary Public



YOUR BANKING

ITEM	AMOUNT	DEPOSIT TO ACCT #
NET	972.25	9058698953

EARNINGS

	HOURS	RATE	AMOUNT	YTD AMOUNT
REGULAR	80.00	21.000	1680.00	
OVERTIME	1.92	31.500	60.48	

TOTAL EARNINGS

1740.48	19710.84
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EMPLOYER INFORMATION

LIBERTY ENVELOPE CORPORATION
7550 CORPORATE WAY
EDEN PRAIRIE, MN 55344-2045

FILING STATUS**TAX TYPE****AMOUNT****YTD AMOUNT**

	SOC SEC	98.25	1125.51
	MEDICARE	22.98	263.22
M 01	FEDERAL	146.17	1716.11
M 01	MN	66.84	786.10

PAY PERIOD 05/02/04 TO 05/15/04
CHECK DATE 05/20/04 CHECK # 29030

TOTAL WITHHOLDINGS

334.24	3890.94
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PERSONAL INFORMATION

JANEK T CHODNICKI
1295 CIDER CIRCLE
SHAKOPEE MN 55379

ADJUSTMENTS**AMOUNT****YTD AMOUNT**

ALM/ CHLDS
CAFE INS
DENT INS

278.26 -	3060.86 -
126.00 -	1260.00 -
29.73 -	297.30 -

SS# 337-68-0987 EMPL# 000086 DEPT# 000100

TOTAL ADJUSTMENTS

433.99-

PAYROLLS BY **PAYCHEX**

0056 **3557** 0002 000100

NET PAY

972.25	11201.74
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Exhibit A

After-Tax Cash & Support

2004

Last Name	Janek		Total
<u>Monthly Amounts</u>			
1 Salary	3,770	0	
2 Self-Employment Income	0	0	
3 Social Security Inc	0	0	
4 Interest and Dividends	0	0	
5 Other Taxable Inc	0	0	
6 Tax Exempt Interest	0	0	
7 Other Nontaxable Cash	0	0	
8 Cash Perks	0	0	
9 Other Gross Deductions	0	0	
10 Support Previous Marriage	0	0	
11 Total Gross Cash	3,770	0	
<u>Allowed Deductions</u>			
12 Fed Inc Tax Excl Tax on Alimony	505	0	
13 MN Inc Tax Excl Tax on Alimony	192	0	
14 Soc Sec/Self-Emp Tax	288	0	
15 Local Income Tax	0	0	
16 Hospitalization Premiums	338	0	
17 Pension	0	0	Cash for Spt Excludes Tax
18 Other Net Deductions	0	0	Impact of Alimony
19 Total Deductions	1,323	0	Spt as % of
20 Cash Before Support	2,447	0	<u>Payor Net Cash</u>
21 Child Spt Excl Child Care	(602)	602	25%
22 Maintenance (Alimony)	0	0	0%
23 Non-taxable Maintenance	0	0	0%
<u>Tax Impact of Alimony</u>			
24 Federal	0	0	0
25 State	0	0	0
26 Cash Before Child Care	1,845	602	
27 Allocated Child Care Costs	0	0	
28 Other Cash Item (Addition)	0	0	
29 Cash to Meet Living Expenses	1,845	602	2,447
30 Required Cash - Budget	0	0	0
31 Mon Cash Over (Under) Budget	1,845	602	2,447
32 % Share Cash	75%	25%	100%
33 Filing Status	Single	Hd Hsld	
34 Children 17 & Over	0	0	
35 Children Under Age 17	0	0	
36 Value Child Dep Exemption	0	0	0
37 Value Under 17 Child Cr	0	0	0
38 Value of Both	0	0	0
39 Marginal Federal + MN Tax %	32.1%	15.4%	
40 Children Residing With	0	0	
41 Guideline Child Support	0	0	
42 Share of Children Medical Costs	100.0%	0.0%	

June 9, 2004 09:54 AM

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Exhibit B

Debtor(s)

AMENDED SCHEDULE J - CURRENT EXPENDITURES OF INDIVIDUAL DEBTOR(S)

Complete this schedule by estimating the average monthly expenses of the debtor and the debtor's family. Pro rate any payments made bi-weekly, quarterly, semi-annually, or annually to show monthly rate.

☐ Check this box if a joint petition is filed and debtor's spouse maintains a separate household. Complete a separate schedule of expenditures labeled "Spouse."

Rent or home mortgage payment (include lot rented for mobile home)	\$	2,397.75
Are real estate taxes included? Yes No <input checked="" type="checkbox"/>		
Is property insurance included? Yes No <input checked="" type="checkbox"/>		
Utilities: Electricity and heating fuel	\$	150.00
Water and sewer	\$	18.00
Telephone	\$	65.00
Other Time Warner Cable	\$	48.00
Home maintenance (repairs and upkeep)	\$	100.00
Food	\$	250.00
Clothing	\$	50.00
Laundry and dry cleaning	\$	
Medical and dental expenses	\$	
Transportation (not including car payments)	\$	100.00
Recreation, clubs and entertainment, newspapers, magazines, etc.	\$	50.00
Charitable contributions	\$	
Insurance (not deducted from wages or included in home mortgage payments)	\$	
Homeowner's or renter's	\$	
Life	\$	
Health	\$	
Auto	\$	95.00
Other	\$	
Taxes (not deducted from wages or included in home mortgage payments)	\$	
(Specify)	\$	
Installment payments (in chapter 12 and 13 cases, do not list payments to be included in the plan)	\$	
Auto	\$	
Other	\$	
Alimony, maintenance, and support paid to others	\$	125.00
Payments for support of additional dependents not living at your home	\$	
Regular expenses from operation of business, profession, or farm (attach detailed statement)	\$	
Other IRS	\$	111.62
Court Ordered Treatment Program	\$	193.90
TOTAL MONTHLY EXPENSES (Report also on Summary of Schedules)	\$	3,754.27

(FOR CHAPTER 12 AND 13 DEBTORS ONLY)

Provide the information requested below, including whether plan payments are to be made bi-weekly, monthly, annually, or at some other regular interval.

A. Total projected monthly income	\$
B. Total projected monthly expenses	\$
C. Excess income (A minus B)	\$
D. Total amount to be paid into plan each	\$
(interval)	

UNITED STATES BANKRUPTCY COURT
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MEMORANDUM

Debtor filed a petition for relief under Chapter 7 on February 12, 2004. Debtor was represented by Jay Benson, Esq. at the time of filing. Mr. Benson subsequently withdrew from the representation.

Debtor disputes the contention of the United States Trustee that he has the ability to make payments in a Chapter 13 proceeding. In his present financial circumstances, debtor would be unable to submit a confirmable plan that complies with 11 USC § 1322. The debtor's disposable income is less than calculated by the United States Trustee's office because that calculation fails to account for the change in debtor's tax status from married to single. Furthermore, debtor has only half of the rental income available to him at this time because one of his renters has left.

Debtor's monthly living expenses are also greater than assumed by the United States Trustee. Debtor's original attorney erroneously used the amount of debtor's monthly mortgage payment prior to his refinancing in Schedule J. The correct amount in February, 2004 was \$2,397.75. Since the filing of the petition on February 12, 2004, debtor has incurred additional expenses. Debtor has court ordered obligations that commenced in April, 2004 that adds another \$193.00 per month to his expenses. Using United States Trustee's calculation of the debtor's disposable income of \$3,373.64, still results in a negative monthly cash flow of \$380.00. It is

unreasonable to assume that the debtor could find more than an excess \$200.00 in his budget. This amount would result in a dividend to the unsecured creditors of less than twenty five percent.

Debtor requests the motion to dismiss or convert filed by the United States Trustee by denied and that debtor be granted a discharge under his Chapter 7 Petition.

Dated: 6/10/2004

/e/ Mark A. Carter
Mark A. Carter Atty. #134107
Attorney for Debtor
810 South First Street
Suite 100
Hopkins, MN 55343
(952) 935-7383

United States Bankruptcy Court
District of Minnesota

IN RE:

Case No. 04-30778

Jane T. Chodnicki

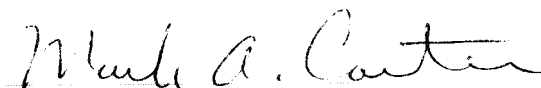
Chapter 7

Debtor(s)

CERTIFICATE OF MAILING

The undersigned hereby certifies that a true copy of the following document(s):
Responsive Affidavit and Memorandum

was(were) mailed to all persons in interest at the addresses set forth in the exhibit which is attached hereto, by first class mail,
postage prepaid, on this **10th** day of **June**, **2004**.



Mark A. Carter #134107

Carter Legal Services, P.A.
810 South First Street, Suite 100
Hopkins, MN 55343

(952) 935-7383

**Nauni Jo Manty
Rider Bennett LLP
333 S 7th St. Ste. 2000
Minneapolis, MN 55402**

**United States Trustee
1015 U S Courthouse
300 So. Fourth St.
Minneapolis, MN 55415**